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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/545,966	07/12/2006	Atsushi Okamoto	740675-62	8262

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EXAMINER

NGUYEN, TRAN N

ART UNIT PAPER NUMBER

2834

DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/545,966		OKAMOTO, ATSUSHI	
	Examiner		Art Unit	
	Tran N. Nguyen		2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 6 and 7 is/are allowed.
- 6) ☒ Claim(s) 4, 5 and 8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

1. The disclosure is objected to because of the following informalities: the Specification refers to claims, e.g. page 5-9 thereof with the phrase "the invention of claim". Claims should not be referred in the Specification. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claim 4 and 4/8** (4/8 is claim 8 depends from claim 4) are rejected under 35

U.S.C. 103(a) as being unpatentable over Applicant Admitted Prior Art Figs 17-20 (hereafter AAPA Figs 17-20) in view of Iijima (US 5661357).

AAPA Figs 17-20, as the applicant discusses in the Background Art section of the application, the brush assembly having an arched brush arm and the brush base with the hole through which the support post passes for mounting the brush on the brush holder 4, a coil-shaped spring is mounted on the support post so that the brush is rotatable against the commutator blade, wherein a guide as part of the brush base, as well as the recess in the brush

holder; wherein the longitudinal direction of the coil-shaped spring is aligned with the face of the brush holder, and the coil-shaped spring and the brush are in substantially the same plane. Thus, AAPA Figs 17-20 substantially discloses the claimed invention; except for the limitations of *a cover plate to cover a winding of the coil-shaped spring when viewed from a direction perpendicular to the face of the brush holder.*

Iijima, however, teaches a brush assembly having cover plates (45, 48 figs 5-6) to cover a winding of the coil-shaped spring when viewed from a direction perpendicular to the face of the brush holder for the purpose of providing mechanical means to cover the brush holder to prevent a springing-out of the coil spring from the brush holder; therefore, facilitating the assembling and disassembling of the brush.

Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the AAPA brush assembly by providing a cover plate to cover a winding of the coil-shaped spring when viewed from a direction perpendicular to the face of the brush holder, as taught by Iijima. Doing so would provide support for the brush assembly to prevent springing-out of the coil spring from the brush holder and protection for the brush.

Double Patenting

The non-statutory double patenting rejection, whether of the obviousness-type or non-obviousness-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent. *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); and *In re Goodman*, 29 USPQ2d 2010 (Fed. Cir. 1993).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(b) and © may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.78(d).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 5 and 5/8 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2-3 of U.S. Patent 6,927,523 B2 (hereafter, USP '523 B2) in view of **Iijima**.

Claims 2-3 of USP'523 are similar to claims 5 and 8 (that depends from claim 5) of this application, particularly the support post, i.e. known as the supporting shaft (7) as in the patented invention, and an insertion tube, i.e., known as an inserting cylinder as in the patented invention, for inserting said supporting post into the brush base. The only difference is *a cover plate to cover a winding of the coil-shaped spring when viewed from a direction perpendicular to the face of the brush holder*.

Iijima, however, teaches a brush assembly having cover plates (45, 48 figs 5-6) to cover a winding of the coil-shaped spring when viewed from a direction perpendicular to the face of the brush holder for the purpose of providing mechanical means to cover the brush holder to prevent a springing-out of the coil spring from the brush holder; therefore, facilitating the assembling and disassembling of the brush.

Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the AAPA brush assembly by providing a cover plate to cover a winding of the coil-shaped spring when viewed from a direction perpendicular to the face of the brush holder, as

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taught by Iijima. Doing so would provide support for the brush assembly to prevent springing-out of the coil spring from the brush holder and protection for the brush.

Allowable Subject Matter

2. **Claims 1-3, 6-7 are allowed, and claim 8 depends from any one of the independent claims 1-3, and 6-7 is also allowed.**

Conclusion

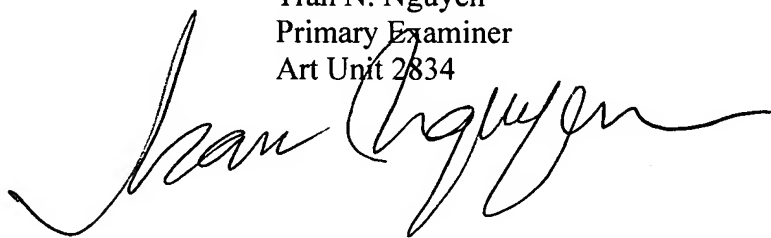
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tran N. Nguyen whose telephone number is 571-272-2030. The examiner can normally be reached on 7:00 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on 571-272-2044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. (Note: Use this **Central Fax number 571-273-8300 for all official response.**)

Do not use the Examiner's RightFax number without informing the Examiner first because faxed document via RightFax is treated as unofficial, until it is routed to the Central Fax.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tran N. Nguyen
Primary Examiner
Art Unit 2834

A handwritten signature in black ink, appearing to read 'Tran N. Nguyen', is written over the printed name and title.